

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY  
WASTE AND HAZARDOUS MATERIALS DIVISION

Responses Summary of Agreement State Licensees

The State of Michigan is beginning the process of updating its regulations governing the use of ionizing radiation from radioactive material. As part of the process, we are investigating issues relevant to becoming an Agreement State. A stakeholder workgroup has been formed of current Michigan U.S. Nuclear Regulatory Commission (NRC) licensees, and the first meeting to discuss topics has been held. During that meeting, many concerns were raised regarding the transition of radioactive material licensing from the NRC to the State. To address these concerns we have drafted a list of pertinent questions for the licensees in some states that have recently become Agreement States. The following are questions that address issues raised during the workgroup meeting:

1. What type of license does your facility operate under (i.e. broad scope medical, industrial radiography, other byproduct, etc.)?

**Most responses were from academic R & D and medical broad scope licensees. Also included one broad scope to distribute material and one license for site decommissioning work.**

2. Does your Agreement State have state legislation to prevent the Radiation Control Department from being more restrictive than the NRC on substantive issues?

**All but one (from ND) responded 'No' or 'do not know'. The ND respondent notes that the agency can be more restrictive if a "regulatory impact study" shows justification. Cited examples of tighter state restrictions related to air emission standards (2 respondents) and states requiring specific licensing for items considered generally licensed by NRC (2 respondents).**

3. Are there delays in state promulgation of NRC rules revisions that are significant to your operation?

**The table groups the responses by state and answer. The "NA" indicates the respondent did not answer the question. Some respondents addressed the question with statements about rules promulgation but did not indicate whether it was significant to their operation. Nearly all noted that some delays exist (the states are allowed 3 years to incorporate revisions). Some viewed the delay as an advantage to their operation, most viewed it as no consequence.**

<u>State</u>	<u>Yes</u>	<u>No</u>	<u>NA</u>
MA	2		
WI		4	
OH	1	2	1
MS			1
GA			1
NY		1	1
FL			1
RI		1	
ND			1
IA		1	
WA			1

4. How do the quality of state inspectors compare with NRC inspectors?

**The Quality of state inspectors are viewed as more variable than NRC. Inexperience was noted and high turnover due to lower state salaries was noted as an issue. On that theme, several of the academic respondents claimed to have "hired away" state inspectors. Some respondents said**

that state inspectors were more cordial and were allowed greater latitude to exercise professional judgment than NRC while others said that state inspectors were more likely to have a checklist mentality.

5. How does the material license review process compare?

Similar to the response to inspectors. Lack of experience in license review was noted by some. Disagreements between licensee and agency were resolved more easily with the states. The majority of respondents preferred state reviews to the NRC.

6. What were the interim costs?

Apparently this question was not well understood. Only two respondents (both from WI) directly answered this question: "\$11,000 per year...for 2 ...or ... 3 years" and "62% of NRC fees for 5 years". Both were for a broad scope medical license. Most of the answers addressed the current fees in their state; some noted the lack of small business and university exemptions. Many respondents seemed to be unfamiliar with the concept, since their states agreement programs were initially self-funded.

7. What are the advantages or disadvantages of operating in an Agreement State (i.e., is it cheaper, more effective, simpler, etc.)?

Many of the advantages/disadvantages were covered in prior questions. Below is a condensed list with some quotations used:

**Advantages include:**

- Lower Fees
- Closer relationship with regulators
- Regulations apply the same standards to byproduct and accelerator produced radioactive materials
- Faster turnaround of license amendments
- Fee money stays in the state
- "I could make local phone calls to bug them about my concerns and invite them over to do surprise inspections with users I am having problems with"

**Disadvantages include:**

- More restrictions and higher fees for NRC generally licensed devices
- "With new ideas (read: exemptions) the state people are less willing to take chances"
- "What I find disturbing is that they [the state] can be swayed and more political with a lot of individual variations. The managers are unwilling to resolve differences between staff "
- Knowledge base not as large as NRC
- Regulations may not be uniform with national or other states' standards

8. What major difficulties or pitfalls did you encounter when your State changed from NRC-regulated to State-regulated?

Most respondents had nothing significant to report or had never experienced a change. Getting used to differences between NRC rules and the states' versions were noted.

9. How would you rate the communications between licensees and State regulators – good, fair, or poor?

**This question was answered directly for the most part:**

Good:	16
Fair:	1
Poor:	2

10. Since becoming an Agreement State, what changes in your regulatory program would you like to see made?

**Below are some specific recommendations (quotations) taken from the surveys:**

**“The main changes that are necessary are NRC to regulate NARM and the State Department of the Environment to adopt the EPA’s Conditional Exemption Rule allowing the MDPH to have full jurisdiction over mixed waste.”**

**“Manufacturers would appreciate if every state used terminology and format for licenses that are identical with the NRC.”**

**“The State needs to enforce its’ rules for possessing GL devices, including the development of a database for tracking GL devices. The proposed rule for making anyone that possesses a GL device apply for a specific license hurts small business and does nothing to promote safety.”**

**“There needs to be an accounting system in place for tracking cost of the state regulatory body; e.g., average cost of routine inspections, cost of non-routine inspections, investigations, device registration reviews, license renewals, etc.”**

**“I would like to see the radioactive materials inspectors be allowed the ability to review some radiation-producing machine areas during their inspections.”**

**“On-line regulations and regulatory guides should be split up into sections similar to how the NRC does it as opposed to one long .pdf file.”**

**“The state has a high employee turnover rate due to low salaries, bureaucracy, and personalities of management.”**

**“One final note, I highly recommend individuals become active with the CRCPD.”**

**“It is highly recommended that the Agreement States execute the CRCPD mission statement, which in part, addresses the promotion of “consistency” in addressing and resolving radiation protection issues.”**